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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/648,660	08/25/2000	Peter Callas	4926	5895
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FENWICK & WEST LLP SILICON VALLEY CENTER 801 CALIFORNIA STREET			EXAMINER	
			ROBERTS, PAUL A	
	VIEW, CA 94041			
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Please find below and/or attached an Office communication concerning this application or proceeding.

Applicatin No. Applicant(s) Office Action Summary Paril A Roberts The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE g MONTH(S) FROM THE MAILING DATE of THIS COMMUNICATION. Exemption of time may be available under the provisions of 37 CFR 1.1350, in no event, however, may a reply be timely filled with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE g MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Exemption to time may be available under the provisions of 37 CFR 1.1350, in no event, however, mays reply be timely filled with the contraction of the provision of the contraction					N.K			
Examiner Paul A Roberts 3731	; ;		Applicati n l	No. Applicant	t(s)			
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THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provision of 37 CPR 1 136(a). In no event, however, may a reply be timely filed after SN (6) MONTHS from the mailing date of this communication. **Provision of time may be available under the provision of 37 CPR 1 136(a). In no event, however, may a reply be timely filed after SN (6) MONTHS from the mailing date of this communication. **Provision of the provision of the pro			ication appears on the co	ver sheet with the correspond	ence address			
2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-16 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) 5-9 and 12-16 is/are allowed. 6) Claim(s) 1-4.10 and 11 is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13)	 THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 							
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DETAILED ACTION

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

- 1. Claims 1-4, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fogarty et al (5979452) in view of Laird (6276661) and Merry at al. (4929235).
- 2. Fogarty et al. disclose an access port for introducing an endoscope device, as claimed and suggest that any type of seal means may be incorporated with the access port. Laird discloses a fluid seal being used with an access port for introducing an endoscopic device. Merry et al. disclose a fluid seal and an auxiliary fluid seal. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the fluid seal as disclosed by Laird or Merry et al. into the Fogarty et al.'s access port in order to provide a fluid tight seal about the endoscopic device within the access port. The balloon of the Fogarty device expands laterally and axially about the body. The body is element 44 and the balloon is near (or about) the body. Though 'about' can mean surrounding on all sides, a tire is about a wheel, 'about' can also mean "in the vicinity of, around: explored the rivers and streams about the estate."

 (www.dictionary.com). The modified Fogarty reference anticipates the latter usage. The balloon forms a fluid filling sealing engagement with the tissue about the incision.

Allowable Subject Matter

3. Claims 5-9 and 12-16 are allowed. The following is an examiner's statement of reasons for allowance: for claims 5-9, please see office action mailed 11/22/02. For claims 12-16, the

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prior art does not anticipate the flange of claim 12 being configured so that is integrally formed on the proximal end of the cylinder and overlays the proximal end of the body. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hahnen 20010023332 discloses a surgical port containing a similar structure to the device of claim 1.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A Roberts whose telephone number is (703) 305-7558. The examiner can normally be reached on 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Milano can be reached on 703-308-2496. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Paul Roberts June 27, 2003

MICHAEL J. MILANO SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 3700